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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,211 04/14/2004 Claudia Dorenkamp 37105.0053 6284

26712 7590 02/06/2007  
HODGSON RUSS LLP  
ONE M & T PLAZA  
SUITE 2000  
BUFFALO, NY 14203-2391

EXAMINER
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DOERRLER, WILLIAM CHARLES

ART UNIT	PAPER NUMBER
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3744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS 02/06/2007 PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/824,211

Applicant(s)

DORENKAMP ET AL.

Examiner

William C. Doerrler

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of the '704 or '792 UK patents from the IDS in view of either Chevalier et al or Jacobs and Biehl et al.

Each of the UK patents disclose applicant's basic inventive concept, a microtome with an associated cryostat and a light source, substantially as claimed with the exception of using modular LED assemblies which may be dimmed as the light source and placing the illumination device inside the cryostat. Chevalier et al and Jacobs each show dimmable LEDs to be old in the illumination art. Biehl et al show illumination device 8 inside the cryostat housing. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of either Chevalier et al or Jacobs to modify the microtome of either of the UK patents by using dimmable LED modules for the light source to provide highly controllable, efficient light that also produces less heat

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and from the teaching of Biehl to place the illumination device inside the cryostat to ensure that illumination remains on the object being examined.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '704 or '792 UK patent in view of either Chevalier et al or Jacobs and Biehl et al as applied to claims 1-8 above, and further in view of either Choi et al or Kanao et al.

Either of the UK patents, as modified, discloses applicant's basic inventive concept, a microtome with a cryostat and a dimmable LED light source, substantially as claimed with the exception of providing a switch controllable with the opening and closing of the cover and shielding the LEDs. Choi et al and Kanao et al each show these features to be old in the illumination art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of either Choi et al or Kanao et al to modify the microtome of either UK patent by controlling the LEDs with the opening or closing of the cover, to ensure that light is provided when it is needed, while not wasting energy, and to provide a shield to protect the LEDs from damage.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Biehl shows an illumination device inside a cryostat. This is all that is lacking in the previous combination. Both UK patents show external "cold" illumination sources. The illumination sources are placed outside the cryostat to reduce heat transferred to the cryostat. Biehl heats the glass of the system using the light to reduce condensation of the glass. Biehl et al, nonetheless, show the illumination device inside the cryostat. If

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one of ordinary skill in the art were to desire the best illumination possible, for the best image possible, Biehl would direct one of ordinary skill in the art to place the light in the cryostat to enable the most direct illumination possible. However, one of ordinary skill in the art would recognize that the UK patents use the external lights to reduce heat transfer to the sample. Jacobs and Chevalier et al teach to use of LEDs to provide a highly controllable lightsource, which also provides very little heat. The combination of these teachings would lead an ordinary practitioner in the art to provide a cryostat with internal LEDs to provide the best image possible, efficiently and reliably.

### ***Conclusion***

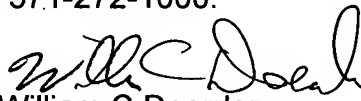
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
William C Doerrler  
Primary Examiner  
Art Unit 3744

WCD